

BOARD BILL NO. 118 INTRODUCED BY ALDERWOMAN JENNIFER FLORIDA

1 An Ordinance pertaining to the Employees Retirement System of the City of St. Louis  
2 (the “Retirement System”) repealing the following: Section One of Ordinance No. 67963  
3 (formerly Subsection 6 of Section Six of Ordinance No. 66511) and enacting new  
4 provisions related to the same subject matter; authorizing and directing the Board of  
5 Trustees of the Retirement System to seek a “Qualified Status” determination letter from  
6 the Internal Revenue Service and to adopt regulations related thereto; containing a  
7 severability clause; and containing an emergency clause.

8 WHEREAS, the City of St. Louis, Missouri (the “City”) established the  
9 Retirement System by City ordinance effective April 1, 1960 pursuant to that state statute  
10 currently codified as Section 95.540 of Missouri Revised Statutes 2000, as amended, in  
11 order to provide for the pensioning of certain City employees and the employees of  
12 certain other governmental entities providing services to the inhabitants of the City;

13 WHEREAS, the Internal Revenue Service (the “IRS”), an agency of the federal  
14 government, has determined that the Retirement System meets the applicable  
15 requirements of a “Qualified Plan” as defined by the Internal Revenue Code of 1986, as  
16 amended (the “IRC), and is in compliance with the applicable provisions and  
17 requirements of IRC Section 401(a) in order for the Retirement System to maintain its  
18 income tax exempt status;

19 WHEREAS, the United States Congress enacted The Heart Act which added  
20 additional IRC requirements for Qualified Plans subsequent to the Retirement System’s  
21 most recent application for a Determination Letter pertaining to the Retirement System’s  
22 “Qualified Status.”

BOARD BILL NO. 118 INTRODUCED BY ALDERWOMAN JENNIFER FLORIDA

1 WHEREAS, the City is required to make certain changes to the City ordinances  
2 governing the Retirement System in order to maintain the Retirement System's status as a  
3 Qualified Plan;

4 WHEREAS, the City and the Retirement System have determined that it is in the  
5 best interest of the City and the Retirement System to maintain the Retirement System's  
6 status as a Qualified Plan; and

7 WHEREAS, it shall be necessary for the Board of Trustees of the Retirement  
8 System to make a new application with the IRS every five years in order to secure a  
9 current "Qualified Status" Determination Letter.

10 NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF ST. LOUIS,  
11 MISSOURI AS FOLLOWS:

12 SECTION ONE. Section One of Ordinance No. 67963 of the City of St. Louis,  
13 Missouri (the "City") (formerly Subsection 6 of Section Six of Ordinance No. 66511 of  
14 the City) is hereby repealed and enacted in lieu thereof is the following:

15 6. Military Service.

16 Effective December 12, 1994, absence from employment with an  
17 "Employer" (as defined in Subsection 12 of Section Four of Ordinance  
18 66511) because of "Qualified Military Service" (as defined in Subsection  
19 21 of Section Four of Ordinance 66511) shall be considered a leave of  
20 absence granted by the Employer, provided the Employee (as defined in  
21 Subsection 11 of Section Four of Ordinance 66511) returns to active  
22 employment with his or her Employer within the period of time during  
23 which he or she has reemployment rights under any applicable federal law

BOARD BILL NO. 118 INTRODUCED BY ALDERWOMAN JENNIFER FLORIDA

1 or within 90 days from and after discharge from such military service if no  
2 federal law is applicable and such service shall be included in “Creditable  
3 Service” (as defined in Subsection 8 of Section Four of Ordinance 66511).

4 Notwithstanding any provision of law to the contrary, contributions,  
5 benefits and Creditable Service (as defined in Subsection 8 of Section  
6 Four of Ordinance 66511) with respect to Qualified Military Service will  
7 be provided in accordance with Section 414(u) of the Internal Revenue  
8 Code of 1986, as amended (the “IRC”) and the federal Uniformed  
9 Services Employment and Reemployment Rights Act of 1994, as  
10 amended.

11 Effective with respect to deaths occurring on or after January 1, 2007,  
12 while a Member (as defined in Subsection 16 of Section Four of  
13 Ordinance 66511) is performing Qualified Military Service, to the extent  
14 required by section 401(a)(37) of the IRC, survivors of a Member, are  
15 entitled to any additional benefits that the Retirement System (as defined  
16 in Subsection 23 of Section Four of Ordinance 66511) would provide if  
17 the Member had resumed employment and then died such as accelerated  
18 vesting or survivor benefits that are contingent on the Member’s death  
19 while employed. In any event, a deceased Member’s period of Qualified  
20 Military Service must be counted for vesting purposes.

21 Beginning January 1, 2009, to the extent required by section 414(u)(12) of  
22 the IRC, an Employee receiving Differential Wage Payments (as defined  
23 under section 3401(h)(2) of the IRC) from an Employer shall be treated as

BOARD BILL NO. 118 INTRODUCED BY ALDERWOMAN JENNIFER FLORIDA

1           employed by that Employer, and the differential wage payment shall be  
2           treated as compensation for purposes of applying the limits on annual  
3           additions under section 415(c) of the IRC. This provision shall be applied  
4           to all similarly situated individuals in a reasonably equivalent manner.

5           SECTION TWO. The Board of Trustees (as defined in Subsection 5 of Section  
6 Four of Ordinance 66511) is hereby authorized and directed to seek a favorable  
7 determination letter from the Internal Revenue Service (“IRS”) that the Retirement  
8 System continues to be a Qualified Plan during each filing period for governmental plans,  
9 as determined by the IRS. The Board of Trustees is authorized to adopt rules or  
10 regulations and to take the actions to meet the requirements imposed by the IRS a part of  
11 this process.

12          SECTION THREE. Each provision of this ordinance shall be severable. In the  
13 event any provision of this ordinance is found by a court of competent jurisdiction to be  
14 unconstitutional, the remaining provisions of this ordinance are valid, unless the court  
15 finds the valid provisions of this ordinance are so essentially and inseparably connected  
16 with, and so dependent upon, the void provision(s) that it cannot be presumed that the  
17 Board of Aldermen would have enacted the valid provisions without the void one(s); or  
18 unless the court finds that the valid provisions, standing alone, are incomplete and are  
19 incapable of being executed in accordance with the legislative intent.

20          SECTION FOUR. This being an ordinance for the preservation of public peace,  
21 health, safety or a benefit, it is hereby declared to be an emergency measure within the  
22 meaning of Sections 19 and 20 of Article IV of the Charter of the City of St. Louis and

BOARD BILL NO. 118 INTRODUCED BY ALDERWOMAN JENNIFER FLORIDA

1   therefore this ordinance shall become effective immediately upon its passage and  
2   approval by the Mayor.

3